

his left arm forced his retirement in November 1981. Tim McCarthy, a Secret Service agent, was shot in the chest and suffered a lacerated liver. He recovered and returned to duty.

Still, four lives were changed forever, and all by a Saturday-night special, a cheaply made .22 caliber pistol, purchased in a Dallas pawnshop by a young man with a history of mental disturbance. This nightmare might never have happened if legislation that is before Congress now, the Brady bill, had been law back in 1981.

President Reagan was right. The record of prevention of gun sales to potentially dangerous buyers over the past 14 years and the lives saved dramatically demonstrate that and remind us of the wisdom embodied in the Brady law.

#### 5TH ANNIVERSARY OF THE WAR IN IRAQ

Mr. FEINGOLD. Mr. President, next week marks the 5-year anniversary of the war in Iraq. Although Saddam Hussein's brutal authoritarian regime no longer exists, the war has been nothing less than a disaster for that country, for others in the region, and unquestionably for our own, as well.

Four million Iraqis are displaced from their homes and Iraq's profoundly weak central government cannot provide its citizens with sufficient basic services like food, water, and electricity or protect them from savage violence, disappearances, or kidnappings. Tensions continue to rise throughout the Middle East and, as the war triggers internal unrest in many countries, it has caused our own credibility to decrease significantly.

The war continues to undermine our top national security priority—the fight against al-Qaida, which has strengthened itself in Pakistan and reached out to new affiliates around the world. According to the Congressional Research Service, the war costs us over \$10 billion a month in direct costs. The war saps our military, which is stretched too thin to keep us safe here at home. In short, the war is making us weaker, not stronger, and that trend is not likely to change.

America continues to be mired in a conflict that has no end in sight. As of the beginning of this week a total of 3,974 American soldiers had been killed and 29,320 wounded. While the administration touts a recent decline in violence as an indication that the surge is "working," there is little political progress that might indicate the decrease in violence will result in genuine national reconciliation. As the region remains particularly fragile and our international credibility profoundly damaged, Americans ask each other just how many more billions of dollars will be spent and how many more of our brave troops will die or be injured while we wait for national reconciliation in Iraq—which is the only way to end the violence.

Just 2 weeks ago, many of my Republican colleagues stood on the Senate

floor to sing their praises of the surge, but now we may be witnessing a re-emergence of the brutal violence that was said to have dissipated. Early last week, two car bombs exploded, killing 24 people and wounding 56, while later in the week two bombs exploded in downtown Baghdad, killing nearly 70 people and wounding over 120. Yesterday a suicide bomber approached five American soldiers in Baghdad and detonated a bomb—killing all five soldiers and injuring three more. This attack has been labeled the worst attack on U.S. forces in months and it comes only days after a female suicide bomber blew herself up in the home of a Sunni leader who was reported to have been working in collaboration with U.S. forces.

Similarly, another political impasse in Parliament may result in little tangible results from recently passed and supposedly key legislation. Yes, a de-baathification law has passed but it may usher in renewed sectarian tensions as former officials from Hussein's regime try to reclaim their old jobs. A provincial powers election law was sent back to the Parliament by the President's Council—requiring another round of drafting before it is able to move forward. As we well know, working on a law and even passing it is one thing—seeing it successfully implemented is another.

National reconciliation still looks far off. The passage of what the administration is calling "benchmark" laws does not ensure society-wide sectarian reconciliation; in fact, there are significant concerns about how the local efforts we have supported to bring about this decline in violence will be integrated into the national framework. The Sunni Awakening has taken tens of thousands of former-insurgent Sunni militia fighters and it is unclear to what extent we can rely on their loyalties. It is not hard to see, however, that this policy risks increasing distrust between the local Sunnis and national government, which is led predominantly by Shi'ites.

Without a legitimate political settlement at the national level, any decline in violence in Iraq is likely to be tenuous. Recent news from Iraq seems to indicate that any gains in security are already slipping and without a strategy for safe redeployment, it is inevitably our brave men and women who will pay the price.

The war in Iraq drags on while al-Qaida has reconstituted and strengthened itself. The Director of National Intelligence, DNI, recently testified before Congress that al-Qaida's central leadership based in the border area of Pakistan is its most dangerous component. And just a few months ago, the DNI again repeated the Intelligence Community's assessment that, over the last 2 years, "[al] Qaida's central leadership has been able to regenerate the core operational capabilities needed to conduct attacks in the Homeland."

Let me remind my colleagues, that it was from Afghanistan, not Iraq, that

the 9/11 attacks were planned and it was under the Taliban regime—which is once again gaining ground—that al-Qaida was able to flourish so freely. With a recent report warning that we are not winning in Afghanistan, we need to rethink our current Iraq-based strategy so we can counter the threat posed by al Qaida around the world.

As we approach the 5th anniversary of the US-led invasion in Iraq, it is clear that continuing the current open-ended military policy doesn't make sense. The American people certainly know that this war doesn't make sense and they expect us to do everything in our power to end it. We in Congress cannot in good conscience put Iraq on the backburner, and we cannot turn a blind eye or feign helplessness as the administration keeps pursuing its misguided policies.

This Congress has no greater priority than making right the mistake it made over five years ago when it authorized the war in Iraq. I do not want the American people to lose faith in their elected leaders for pursuing a war that they rightly oppose. I do not want to watch a failed strategy perpetuate regional turmoil any longer and I do not want any more American troops to die or get injured for a war that is not in our national security interest.

#### KC-X TANKER DECISION

Mr. WARNER. Mr. President, on February 29, 2008, the Secretary of the Air Force, Michael W. Wynne, announced that the Air Force had made a selection in the KC-X competition for development and procurement of up to 179 tanker aircraft, which are urgently needed to support our armed forces.

This was a critical step forward in the recapitalization of an aging fleet of aircraft that are essential for force projection, intelligence, surveillance, and global strike capabilities. A modern tanker force is at the heart of our national security.

I understand that it was a carefully constructed and transparent process that the Department of Defense and the Department of the Air Force structured and faithfully implemented to reach this decision. As Secretary Wynne said, the announcement "is the culmination of years of tireless work and attention to detail by our acquisition professionals and source selection team, who have been committed to maintaining integrity, providing transparency and promoting a fair competition for this critical aircraft program."

The Boeing Company has filed a protest, as is their right under law, with the Government Accountability Office concerning the Air Force's award of this contract to Northrop Grumman. Further, as provided by law, the GAO will issue their decision within the next 100 days.

I now would like to provide some context and historical background to the ongoing discussion by reviewing the oversight process employed by Senate oversight committees beginning

with the original proposed tanker lease procurement.

Nearly 6 years ago, a \$30 billion authorization provision, placed in the fiscal year 2002 Defense appropriations bill, provided the Air Force the authority to lease, not purchase, up to 100 767s from Boeing, a sole source contract, for use as aerial refueling tankers.

Authority to fund and execute this lease required approval of the 4 congressional committees of jurisdiction over defense programs. Three approved; but, the fourth, the Senate Armed Services Committee, disapproved.

Under Senate procedure, the chairman of the committees made the decision for their respective committees. As chairman of Armed Services at the time, I found fault with the proposed lease contract and after consultations with Members—in particular Senator McCAIN, who provided valuable oversight of the entire process—the committee declined to approve the proposal.

Additionally, consultations with outside experts had corroborated that procedures and provisions related to the lease contract required further oversight by Congress.

Following a full committee hearing on September 4, 2003, I directed the Department of Defense, by letter to investigate the Air Force's initial proposal and analyze alternatives that would meet the operational requirement.

Furthermore, in letters to the General Accounting Office, the Congressional Budget Office, and the Office of Management and Budget, among others, I directed that these other agencies provide assessments of the proposal.

These assessments, as well as further oversight conducted by both the Senate Armed Services and Commerce Committees, led Deputy Secretary of Defense Wolfowitz to order a "pause" in the execution of the proposed lease contract.

On December 2, 2003, I sent a letter to the Deputy Secretary to concur with the decision requiring a "pause" in execution, and stated further:

The Department of Defense Inspector General inquiry should pursue the trail of evidence wherever it leads, in accordance with standard IG procedures.

By February 2004, Secretary of Defense Rumsfeld put a "halt" to the entire tanker lease process, pending the DOD inspector general report.

During the following 3 years, the investigative process uncovered evidence revealing serious, criminal breaches in the very process that Americans trust to provide their service members with the equipment necessary to defend our great Nation. In fact, these efforts resulted in jail sentences for senior persons from the Air Force and Boeing, and a settlement of \$600 million that was paid to the U.S. Treasury.

The findings confirmed—the view of the Senate Armed Services Committee—that the Air Force's tanker lease proposal was faulty. Actions by

the Congress allowed for the requisite time within which the executive branch could establish a free and fair competition. This ultimately resulted in a new proposed contract.

On December 1, 2006, Senator McCAIN, then chairman of the Airland Subcommittee, wrote a letter to Robert Gates, then the President's nominee to be Secretary of Defense. In his letter, Senator McCAIN encouraged Secretary Gates to ensure a fair and open competition by issuing a second draft request for proposals in an effort to make certain that there was no ambiguity in the competition process. As chairman of the committee, I concurred with his initiative, given I have been a very strong proponent of competition.

Since the announcement on February 29, 2008, by the Secretary of the Air Force with regard to the Department's acquisition decision, there has been, in my opinion, an injection of considerable misinformation in the public forum. Consequently, I believe I had an obligation to recite—and document—portions of the history relative to the debate.

I am particularly concerned about allegations that the proposed contract would adversely affect job opportunities in America, given parts of the aircraft would be manufactured abroad.

I draw on my experience as Under then as Secretary of the Navy, 1969–74, when I solicited bids, for major procurements of fleets of new aircraft, from an American industrial base of many companies sized, financed, and experienced to compete.

For many reasons that base, comprised of numerous large domestic companies, has consolidated and narrowed, but America remains the pre-eminent provider for the vast majority of our military procurements. Today, we also rely on our global partners for a wide diversity of technologies and support in joint military procurements. A prime example is the Joint Strike Fighter procurement.

In closing, we must respect the right of Boeing to seek a review by the GAO as provided by law. It is my judgment that until the GAO acts and reports to Congress their findings; we should lower the emotional rhetoric, be accurate with the facts, and withhold judgment of the work done by a large dedicated group of uniformed and civilian acquisition specialists.

I ask unanimous consent that several letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
COMMITTEE ON ARMED SERVICES,  
*Washington, DC, September 4, 2003.*

Hon. DONALD H. RUMSFELD,  
*Secretary of Defense, Washington, DC.*

DEAR MR. SECRETARY: As you know, the Senate Armed Services Committee held a hearing today on the Department's proposed lease of 100 KC-767A tanker aircraft. There was a large attendance of members and an extensive exchange of questions and views in this hearing that lasted over three hours.

During the course of the hearing, Chairman Warner raised the option of leasing a smaller number of tanker aircraft—up to 25—to address the current, short-term need for additional tankers, to be followed by a traditional procurement, not a lease, of the remaining tankers, presumably under multi-year authority. Secretary Roche said that such an option had not been considered. We would like to draw your attention to section 367 of the Senate version of National Defense Authorization Act for Fiscal Year 2004, which requires the preparation of an analysis of alternatives for the Department's aerial refueling requirements. While this language is not directly targeted at the KC-767A lease proposal, it reflects the thinking of the Senate that other alternatives should have been considered.

We request that the Department analyze the option of leasing up to 25 tanker aircraft, followed by a procurement of the remaining aircraft. Such an analysis should include an examination of the budgetary and cost implications of various options for an incremental lease-buy, including an accelerated exercise of the purchase option in the proposed lease.

Additionally, given the emphasis on an apparent corrosion problem in the existing KC-135 tanker fleet, we would appreciate your providing as with a thorough assessment of the extent of those corrosion problems and the expected cost of addressing those problems if tanker aircraft were purchased according to the previous Air Force plan instead of leased sooner as more recently proposed. Also, please provide us with a justification of the Department's decision to pay \$10.3 million per aircraft more than the \$120.7 million per aircraft as determined by the Institute for Defense Analysis to be a reasonable purchase price.

The Committee will await your reply prior to meeting to discuss the pending lease proposal.

With kind regards,

Sincerely,  
CARL LEVIN,  
*Ranking Member.*  
JOHN WARNER,  
*Chairman.*

U.S. SENATE,  
COMMITTEE ON ARMED SERVICES,  
*Washington, DC, September 25, 2003.*

Hon. DAVID M. WALKER,  
*Comptroller General of the United States,*  
*Washington, DC.*

DEAR MR. WALKER: As you know, the Senate Armed Services Committee held a hearing on September 4, 2003, to review the Department of Defense's (DOD) proposed lease of 100 KC-767 aerial refueling aircraft. Testimony by the General Accounting Office (GAO), as well as GAO's work for the Congress on this issue over the past year and a half, was instrumental to the Committee during the hearing.

Subsequent to the hearing, Senator Levin and I asked DOD to analyze the option of leasing up to 25 aircraft, followed by a procurement of the remaining aircraft. We also asked for more detailed pricing information and an assessment of corrosion problems including the cost of addressing those problems for the existing KC-135 fleet of aircraft.

The Department has responded to that letter, and identified several alternative acquisition strategies, with associated estimates of cost and savings. I ask that the GAO review the Department's response, a copy of which is attached. Please provide the Committee with your assessment of the validity of DOD's assumptions and the accuracy of the cost and savings estimates, and identify

any other alternative acquisition strategies the Committee should consider.

Sincerely,

JOHN WARNER,  
Chairman.

U.S. SENATE,  
COMMITTEE ON ARMED SERVICES,  
Washington, DC, September 25, 2003.

Mr. DOUGLAS HOLTZ-EAKIN,  
Director, Congressional Budget Office, 402 Ford  
House Office Building, Washington, DC.

DEAR MR. HOLTZ-EAKIN: As you know, the Senate Armed Services Committee held a hearing on September 4, 2003, to review the Department of Defense's (DOD) proposed lease of 100 KC-767 aerial refueling aircraft. Testimony by the Congressional Budget Office (CBO), as well as CBO's work for the Congress on this issue over the past year and a half, was instrumental to the Committee during the hearing.

Subsequent to the hearing, Senator Levin and I asked DOD to analyze the option of leasing up to 25 aircraft, followed by a procurement of the remaining aircraft. We also asked for more detailed pricing information and an assessment of corrosion problems including the cost of addressing those problems for the existing KC-135 fleet of aircraft.

The Department has responded to that letter, and identified several alternative acquisition strategies, with associated estimates of cost and savings. I ask that the CBO review the Department's response, a copy of which is attached. Please provide the Committee with your assessment of the validity of DOD's assumptions and the accuracy of the cost and savings estimates, and identify any other alternative acquisition strategies the Committee should consider.

I ask that the CBO provide the results of this assessment as soon as possible.

Sincerely,

JOHN WARNER,  
Chairman.

U.S. SENATE,  
COMMITTEE ON ARMED SERVICES,  
Washington, DC, October 2, 2003.

Hon. JOSHUA B. BOLTON,  
Director, Office of Management and Budget,  
Washington, DC.

DEAR DIRECTOR BOLTON: On September 4, 2003, Deputy Director Kaplan testified before the Senate Armed Services Committee on the proposed Air Force lease of 100 KC-767 tanker aircraft.

After the hearing, we wrote a letter to the Secretary of Defense (copy attached) in which we requested three things: (1) an analysis of the option of leasing up to 25 tanker aircraft; followed by a procurement of the remaining 75 aircraft; (2) a thorough assessment of the extent of corrosion problems in the existing KC-135 tanker fleet and the expected cost of addressing those problems over the period before purchased aircraft would become available; and (3) justification and explanation of the Department's decision to pay \$10.3 million per aircraft more than the \$120.7 million per aircraft determined by the Institute for Defense Analysis to be a reasonable purchase price. Deputy Secretary Wolfowitz has responded to our letter, a copy of which is also attached.

Given the importance of this tanker leasing issue, we would appreciate receiving the benefits of your review of Secretary Wolfowitz's response. Specifically, do you concur with the assessments of the advantages and disadvantages of the various funding options that are portrayed in the Deputy Secretary's letter, and do you agree with the stated rationale for paying the price per aircraft as negotiated by the Air Force? We believe that the Committee needs to hear your views on this subject before reaching a deci-

sion on the lease. Accordingly, we ask that you provide this matter prompt attention.

Sincerely,

CARL LEVIN,  
Ranking Member.  
JOHN WARNER,  
Chairman.

U.S. SENATE,  
COMMITTEE ON ARMED SERVICES,  
Washington, DC, December 2, 2003.

Hon. PAUL WOLFOWITZ,  
Deputy Secretary of Defense,  
Defense Pentagon, Washington, DC.

DEAR SECRETARY WOLFOWITZ: I commend the Secretary of Defense and yourself for the prompt actions you have taken regarding the Air Force's tanker aircraft program, in light of recent extraordinary personnel actions taken by the Boeing Company. Your decision to require a "pause" in the execution of any contracts to lease and purchase tanker aircraft is a prudent management step.

Further, I concur in your judgment to task the Department of Defense Inspector General (DOD-IG) to conduct an independent assessment. However, I believe that the DOD-IG assessment should go further than the review described in your letter of December 1, 2003. The DOD-IG inquiry should pursue the trail of evidence wherever it leads, in accordance with standard IG procedures. This inquiry should examine the actions of all members of the Department of Defense and the Department of the Air Force, both military and civilian, top to bottom, who participated in structuring and negotiating the proposed tanker lease contract which was submitted to the Congress in July 2003.

Your recent actions clearly indicate that there are many outstanding questions that must be answered before proceeding with this program. I expect that you will consult further with the Congress as you receive the report of the DOD-IG and that no actions will be taken with respect to the lease and purchase of KC-767 tanker aircraft until the Congress has had an opportunity to review the DOD-IG report. Ultimately, this program, as restructured, must be executed in a manner that is fully consistent with Section 135 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136).

With kind regards, I am

JOHN WARNER,  
Chairman.

JOHN MCCAIN,  
U.S. SENATE,  
Washington, DC, December 1, 2006.

Dr. ROBERT M. GATES,  
President, Texas A&M University,  
One Circle Drive, College Station, TX  
Re: Tanker Replacement Program

DEAR DR. GATES: Subject to the confirmation of your nomination, perhaps the most important new major defense acquisition program for which you will be responsible, will arise from the replacement of the KC-135 aerial refueling tanker fleet. As you probably know, this program is currently valued at about \$200 billion.

Given the regrettable history of the Air Force's prior attempt to recapitalize the fleet, it is vital that this program obtain the best possible joint aerial refueling capability at the most reasonable price. In my view, this can only be achieved by conducting a competition for replacement aircraft fully, openly and transparently—using objective, verifiable metrics. More to the point, if this very important program is to reach production timely, I respectfully suggest that the final Request for Proposals (RFP) must be unambiguous and uncontroversial. Unfortunately, I am not sure we are yet on that course.

In recent correspondence to Deputy Secretary Gordon England, I conveyed concern

about the unprecedented inclusion of an element related to litigation between the United States and the European Union Trade Commission currently pending before the World Trade Organization (WTO), in the draft Request for Proposals (dRFP). I remain troubled that, without clarity on how answers to this provision will be evaluated, this element (and other similarly troubling provisions, including an overly restrictive invocation of the Berry Amendment and a questionable extension of ITAR regulations) may risk eliminating competition before bids are submitted. I understand that the Department will issue a final RFP on December 15, 2006.

Recent developments in the program underscore my concerns. On Tuesday, November 28, 2006, the Air Force held an Acquisition Strategy Panel (ASP) to review tanker requirements and select an acquisition strategy for replacement aircraft. I understand that the ASP selected a strategy that did not include a "capabilities-based acquisition." As such, the approach that the ASP selected appears to deviate from what I understand the Joint Requirements Oversight Council (JROC) prescribed. I understand that, in vetting the KC-X Operational Requirements Document (ORD), the JROC called on the Air Force to consider tanker aircraft options that maximize cargo and passenger capacity. But, without a capabilities-based evaluation that objectively and verifiably measures capability beyond thresholds in either the primary mission area (aerial refueling) or other inherently critical missions available from large aircraft platforms (such as airlift), it is difficult to see how the JROC's recommendation can be implemented. As a result, competition may, once again, be eliminated before bids are even submitted.

Against this backdrop, I respectfully suggest that issuing a second dRFP, which can address issues raised by all prospective offerors in their responses to the first dRFP, and conducting a capabilities-based evaluation, which can help assure that the warfighter and the taxpayer obtain the most capable platform at the best possible value, may be useful.

If you are confirmed, I respectfully ask for the following: that you withhold releasing the final RFP until you have provided me with an explanation of how you intend to assure that the competition for tanker aircraft will be conducted fully, openly and transparently—particularly in light of the issues described above.

Sincerely,

JOHN MCCAIN,  
Chairman, AirLand Subcommittee.

#### HONORING DR. OSCAR BISSET

Mr. NELSON of Florida. Mr. President, I join today with Senators MARTINEZ and MENENDEZ, and other colleagues, to highlight the ongoing struggle for freedom being waged by a people oppressed by their own government, and to honor the struggle of one particular individual whose commitment to bringing that freedom has never wavered, even in the face of overwhelming oppression.

Dr. Oscar Elias Biscet is a Cuban physician and human rights activist who has dedicated himself to the struggle to bring democracy, justice and freedom to Cuba.

Dr. Biscet was unjustly sent to prison by a regime scared of the truth that his activities threatened to unveil—the